IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIRST DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 1976 of 2005

Between:

N.V. Narasaiah S/o N.Venkatappaiah
R/o Sher Mohammed Pet, Jaggaiahpet Mandal, Krishna District

..... PETITIONER

AND

1 The Depot Manager, APSRTC., Jaggaiahpet Depot Jaggaiahpet, Krishna District.
2 The Regional Manager, APSRTC., Krishna Region, Vijayawada, Krishna district
3 APSRTC., Musheerabad, Hyderabad rep by Vice Chairman & Managing Director

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue notice, call for records, quash and set-aside the impugned proceedings No. E1/255(4)/2003-JPT dt 28/1/2005 (received on 1/2/2005) of the 1st Respondent herein thro' which conformed the date of birth of the petitioner as 15/7/1945 instead of 3/1/1949 and the proceedings being initiated to retire the petitioner if any thereof consequential impugned proceedings No.E1/255(4)/2003-JPT dated 31.1.2005 (received on 8.2.2005) as the same is arbitrary, unjust and illegal, violative of principles of natural justice, Article 14, 16, 19(1)(g) and 21 of constitution of India and quash and set-aside and to grant such other relief or reliefs as the petitioner is found entitled to in law, by issuance of a Writ more particularly a Writ in the nature of a Writ of Certiorari.

(Writ Petition prayer is amended as per Court order dated 1.3.2005 in W.P.M.P.No.

4025 of 2005)

Counsel for the Petitioner : Mr.CH.RAMESH BABU

Counsel for Respondents : Mr.R.MANMADHA REDDY (SC FOR APSRTC)

The Court made the following :

ORDER:

Questioning the proceedings of the first respondent in No.E1/255(4)/2003-JPT dated 28.1.2005 as well as the consequential proceedings No.E1/255(4)/2003-JPT dated 31.1.2005 changing the date of birth of the petitioner from 3.1.1949 to 15.7.1945, the present writ petition is filed.

The case of the petitioner is that his date of birth is 3.1.1949 by virtue of Driving Licence obtained from the Regional Transport Authority under Motor Vehicles Act and joined in the Respondent-Corporation w.e.f. 9.2.1979. Thereafter, on the directions of the first respondent, the petitioner obtained transfer certificate from the School authorities where he has studied upto 8th class, which discloses the date of birth of the petitioner as 15.7.1945. Therefore, third respondent issued show cause notice dated 30.6.2003 to the petitioner calling for his explanation. Thereafter, he filed W.P.No.13508 of 2003 before this Court and this Court initially stayed the said show cause notice and thereafter dismissed the writ petition giving liberty to the petitioner to file explanation within a period of four weeks from the date of order and on such explanation, the respondent shall dispose of the matter on merits in accordance with law after giving an opportunity to the petitioner. Thereafter the respondent issued the impugned proceedings changing the date of birth of the petitioner as 15.7.1945. Hence the present writ petition.

The learned counsel for petitioner submits that the Depot Manager is not the competent authority to alter the date of birth of the petitioner, which entered into the service register.

On the other hand, the learned counsel for Respondent-Corporation submits that the Depot Manager who is the appointing and disciplinary authority, has issued the impugned proceedings by taking the date of birth from the study certificate produced by the petitioner in accordance with Rule 19(3) of the Andhra Pradesh State Road

Transport Corporation Employees' (Service) Regulations, 1964 and the same was submitted to third respondent for ratification.

The question that falls for consideration is whether the Depot Manager is competent to alter the date of birth of the petitioner. Admittedly, as per the service register, the date of birth of the petitioner is 3.1.1949, thereafter by virtue of impugned proceedings, the same was altered to 15.7.1945. As seen from the proceedings, after calling for explanation, the first respondent ordered that the date of birth of the petitioner be changed as 15.7.1945 duly modifying the earlier recorded date of birth 3.1.1949 for all purposes in future transactions. The Service Regulations of APSRTC governs with regard to change of date of birth of an employee. Regulation 19(3) thereof reads as under:

> The date of birth as determined by the appropriate provisions of the preceding clauses shall be recorded in the service register. The date so recorded shall be held to be binding and no alteration of such date shall be permitted subsequently. It shall however, be open to the Corporation in the case of a Class-I employee, and to the Managing Director in the case of any other employee under his administrative control, to cause the date of birth to be altered-
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> i. Where in his opinion it had been falsely stated by the employee to obtain an advantage otherwise inadmissible, provided that such alteration shall not result in the employee being retained in service longer than if the alteration had not been made; or
>
> ii. Where in the case of illiterate staff, the Managing Director is satisfied that a clerical error has occurred.

A plain reading of the above provision makes it clear, that in case of any other employee, the Managing Director is the competent authority to alter the date of birth. Hence, the Depot Manager has no power or jurisdiction to alter the date of birth in the service register. Therefore, question of ratification by the Managing Director does not arise. Since the order under challenge is completely contrary to Regulation 19(3) of the Andhra Pradesh State Road Transport Corporation Employees' (Service) Regulations, 1964, it has to be set aside.

In the result, the writ petition is allowed and the proceedings of the first respondent dated 28.1.2005 and the consequential proceedings dated 31.1.2005 are hereby set

aside. There shall be no order as to costs.

However, this order will not preclude the third respondent to take appropriate decision in accordance with law, as per regulations.

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K.C.BHANU, J

Date: 1.3.2005

DA

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on the First day of March, Two Thousand and Five.

REGISTRAR

To

1 The Secretary, Union of India, Ministry of Home Affairs, New Delhi.
2 The Depot Manager, APSRTC., Jaggaiahpet Depot Jaggaiahpet, Krishna District.
3 The Regional Manager, APSRTC., Krishna Region, Vijayawada, Krishna district
4 The Vice Chairman & Managing Director, APSRTC., Musheerabad, Hyderabad.

5 The Secretary, A.P.Legal Services Authority, High Court Buildings,

Hyderabad.

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